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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/702,332	11/06/2003	Ezequiel Romo	P1484CIP	7922

8968 7590 05/18/2005

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EXAMINER

PRONE, JASON D

ART UNIT	PAPER NUMBER
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3724

DATE MAILED: 05/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/702,332

Applicant(s)

ROMO ET AL.

Examiner

Jason Prone

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 21 March 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) 3,5,10,22 and 28 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4,6-9,11-21,23-27 and 29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 November 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 11/06/03.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date: \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election with traverse of Species B in the reply filed on 21 March 2005 is acknowledged
2. Claims 3, 5, 10, and 22 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 21 March 2005.

### ***Drawings***

3. The drawings are objected to because in Figure 16, item "22" should be replaced with "233". In Figure 18, item "514" should be replaced with "235". Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If

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the examiner does not accept the changes, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

4. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "533" has been used to designate both the guide wall in Figure 15 and a washer in Figure 14. Reference character "528" has been used to designate both the first end in Figure 15 and a screw in Figure 15. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the examiner does not accept the changes, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

5. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: In Figure 14, items "527" and "529". Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the

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immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the examiner does not accept the changes, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

6. The specification is objected to under 37 CFR 1.71, as being confusing and difficult to comprehend the invention and compare with prior art. For example, the following is not understood: In regards to the elected species (Figures 9-20), it is unclear what structure is considered the yoke. See the rejections under 35 USC § 112, first paragraph for more details

Applicant is required to submit an amendment which clarifies the disclosure so that the examiner may make a proper comparison of the invention with the prior art.

Applicant should be careful not to introduce any new matter into the disclosure (i.e., matter which is not supported by the disclosure as originally filed).

### ***Claim Rejections - 35 USC § 112***

7. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

8. Claims 1, 2, 4, 6, 7-9, 11-21, 23-27 and 29 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in

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such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

9. In Figures 9-20, it is unclear what structure is considered the yoke. In Figures 1-8, the specification clearly defines a yoke structure.

10. On page 13 lines 6-9 of paragraph [0064], the phrase "movement of the fine-adjustment lever 510 is caused by applying pressure to the lever 510, which causes the latch 522 to press against the spring 518 in the latch holder 516, thereby causing the protrusions 524 on the latch 522 to recess from within the notches 512 on the lever 510" is unclear. Using Figures 11, 14, and 15, it is uncertain how the pressure applied to move lever 510 allows latch 522 to press against spring 518. If the pressure applied to the lever is a horizontal force, it is unclear how that force allows latch 522 to move in a vertical direction. On lines 3-4 of paragraph [0066], the phrase "The repress plate 526 holds the fine-adjustment lever 510 in contact with the latch protrusions 524 and thus restricts the movement of the fine-adjustment lever 510" states that plate holds lever 510 and protrusion 524 together. Figure 11 appears to have plate 526 in place but yet it still shows movement of the lever. Basically, with plate 526 keeping the lever and the protrusion intact to restrict movement, how can the lever move and force the protrusion to withdraw from the lever with plate 526 connected to the assembly.

11. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the

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applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

12. Claims 1, 2, 6, and 7-13 are rejected under 35 U.S.C. 102(e) as being anticipated by Romo (2003/0200852)

The applied reference has a common inventor with the instant application.

Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131. In this case, the instant application is a continuation in part, of 10/135,299, which features 2 embodiments. The second/elected embodiment is not featured in the parent case 10/135,299. The parent case also has a different inventive entity than the child case. Basically, the new/elected embodiment is not disclosed in the parent and, therefore, does not receive the filing date from the parent.

In regards to claims 1, 2, and 6:

Romo discloses the same invention including a lever (32) pivotally mounted to the turntable (40), the lever includes a yoke (120) with opposed sidewalls separated by a distance (140 and 150), a threaded rod that extends through the sidewalls of the yoke in a direction parallel to a tangent of the turntable (160), an insert located between the sidewalls, having a shape suitable to engage a recess of the base, and having a threaded bore extending therethrough (110), the rod extends through the bore in

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threaded relation so that the rotation of the rod causes lateral movement of the insert along the rod between the sidewalls (Fig. 7), that pivotal motion of the lever moves the insert selectively in and out of engagement with the recess (Fig. 6), and a knob attached to an end of the threaded rod (190).

In regards to claims 7-13:

Romo discloses the same invention including a base having at least one recess (95), a turntable rotatably mounted to the base (30), the turntable supports a cutting tool (Title), a lever pivotally mounted to the turntable (32), the lever includes a yoke (120) with opposed sidewalls separated by a distance (140 and 150), a threaded rod that extends through the sidewalls of the yoke in a direction parallel to a tangent of the turntable (160), an insert located between the sidewalls, having a shape suitable to engage a recess of the base, and having a threaded bore extending therethrough (110), and the rod extends through the bore in threaded relation so that the rotation of the rod causes lateral movement of the insert along the rod between the sidewalls (Fig. 7).

Romo further discloses the base includes multiple recesses corresponding to the respective angular positions of the turntable (95), that pivotal motion of the lever moves the insert selectively in and out of engagement with the recess (Fig. 6), the lever is elongate in shape (32), the lever is pivotally mounted to the turntable at a point located intermediate to the length of the lever (40), a knob attached to an end of the threaded rod (190), and the rod extends through the sidewalls in a direction perpendicular to the sidewalls.

***Allowable Subject Matter***



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13. Claim 14-21, 23-27 and 29 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action. Claims 14 and 24 are considered to disclose the following allowable subject matter: the combination of a angular adjustment with a first insert and a fine-adjustment lever with a second insert.

### ***Conclusion***

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Ingersoll, Thompson, Clark et al., Batson, Jorgensen et al., Hirsch et al., Itzov ('511), Itzov ('732), and Broussard.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason Prone whose telephone number is 571-272-4513. The examiner can normally be reached on 7:30-5:00, Mon - (every other) Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan N. Shoap can be reached on 571-272-4514. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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A handwritten signature, possibly reading "JP", in black ink.

JP  
May 11, 2005

A handwritten signature, possibly reading "ay", in black ink.

Allan N. Shoap  
Supervisory Patent Examiner  
Group 3700